

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**September 24, 2001**

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Sims, Acting Presiding Justice; Davis, Associate Justice; Morrison, Associate Justice; and Castillo, Bailiff. Calendar Called.

**C033658 THE PEOPLE v. HALL**

Cause called. Kenneth H. Nordin, court appointed counsel, argued for appellant. David Andrew Eldridge, Deputy Attorney General, argued for respondent. Cause submitted.

**C035416 COOLEY, JR. v. COUNTERPART CAPITAL CORPORATION et al.**

Cause called. Dennis M. Wilson argued for appellants. Jeffrey D. Clason argued for respondent. Cause submitted.

At 10:33 a.m., the court recessed. At 10:38 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Morrison and Associate Justice Callahan.

**C034719 MARTINEZ v. MANTECA-LATHROP FIRE DISTRICT et al.**

Cause called. James T. Locke argued for appellant. Thomas J. Driscoll, Jr. argued for respondents. Cause submitted.

**C034864 MARTINEZ v. MANTECA-LATHROP FIRE DISTRICT et al.**

Cause called. James T. Locke argued for respondent. Thomas J. Driscoll, Jr. argued for appellants. Cause submitted.

At 11:03 a.m., the court recessed. At 2:02 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Callahan and Associate Justice Hull.

**C035734 RHODES v. RHODES**

Cause called. Les Hait argued for respondent. No appearance was made by counsel for appellant, Arthur Cooper, and appellant, Jeffrey D. Rhodes. Cause submitted.

At 2:04 p.m., the court recessed. At 2:10 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Morrison and Associate Justice Kolkey.

**C036849 CALFARM INSURANCE COMPANY v. HAAS**

Cause called. Albert J. Lenzi, Jr. argued for appellant. Peter Abrahams and Takashi R. (T.R.) Sugano argued for respondent. Cause submitted.

At 2:31 p.m., the court recessed until 9:30 a.m., Monday, October 21, 2001.



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**September 25, 2001, continued**

- C038069      THE PEOPLE v. MACKABEE      (Not for Publication)**  
The judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment to reflect presentence custody credit of 262 days of actual days and 130 days of conduct credits, for a total of 392 days, and to forward a certified copy of the corrected abstract to the Department of Corrections.  
SCOTLAND, P.J.  
We concur:    Nicholson, J.  
                 Callahan, J.
- C033026      LEVY v. DEPARTMENT OF PERSONNEL ADMINISTRATION and STATE BOARD OF EQUALIZATION      (Not for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur:    Sims, J.  
                 Davis, J.
- C034356      ANDRE, as Trustee, etc. v. CITY OF WEST SACRAMENTO      (Certified for Publication)**  
The judgment (order) is reversed, and the matter remanded to the trial court for further proceedings. In considering an award of attorney fees under section 1036, the trial court must determine whether plaintiff actually incurred any attorney fees and, if so, whether the amount incurred was reasonable. The City is awarded its costs on appeal.  
HULL, J.  
We concur:    Nicholson, Acting P.J.  
                 Morrison, J.
- C036070      CASELLA v. HELDER      (Not for Publication)**  
The judgment (order) is affirmed.  
HULL, J.  
We concur:    Blease, Acting P.J.  
                 Morrison, J.
- C036288      In re LISAAN S.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. WILLIAM S.      (Not for Publication)**  
The purported appeal in case No. C036288 is dismissed. In case No. C036677 the orders of the juvenile court are affirmed.  
BLEASE, Acting P.J.  
We concur:    Sims, J.  
                 Davis, J.

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**September 26, 2001**

- C032396      THE PEOPLE v. CHAMBERS      (Not for Publication)**  
The judgment is affirmed.  
                         HULL, J.  
I concur:       Raye, Acting P.J.  
I concur in the result.  
                         Callahan, J.
- C036425      THE PEOPLE v. JOHNSON      (Not for Publication)**  
The judgment is affirmed.  
                         BLEASE, Acting P.J.  
We concur:     Nicholson, J.  
                         Raye, J.
- C032701      SHINGLE SPRINGS BAND OF MIWOK INDIANS etc. v. WORKERS'  
COMPENSTATION APPEALS BOARD and KIMBERLY IVESTER  
                         (Not for Publication)**  
The order of the Board affirming the WCJ's findings and order (including the award of sanctions) is annulled, and the matter is remanded to the Board to enable it to exercise its discretion, pursuant to Labor Code section 5906, to direct the taking of additional evidence on the question whether the Tribe waived its sovereign immunity with respect to this workers' compensation claim. The parties shall bear their own costs incurred in the review by this court.  
                         SCOTLAND, P.J.  
We concur:     Blease, J.  
                         Callahan, J.
- C033874      MELGARD v. DEPARTMENT OF TRANSPORTATION  
                         (Not for Publication)**  
The judgment is affirmed.  
                         SCOTLAND, P.J.  
We concur:     Blease, J.  
                         Morrison, J.
- C037071      In re CLYDE M. et al.; DEPARTMENT OF HEALTH AND HUMAN SERVICES  
v. CYNTHIA M.      (Not for Publication)**  
The orders are affirmed.  
                         MORRISON, J.  
We concur:     Scotland, P.J.  
                         Callahan, J.

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**September 26, 2001, continued**

**C038081      In re TYLER M.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. ANGELA M.                      (Not for Publication)**

The judgment is affirmed.

CALLAHAN, J.

We concur:      Scotland, P.J.

Hull, J.

**C034072      THE PEOPLE v. ANDREOTTI                      (Certified for Publication)**  
**THE COURT:**

It is ordered that the opinion filed herein on August 29, 2001, be modified as follows:...The petition for rehearing is denied.

This modification does not change the judgment.

FOR THE COURT:

Raye, Acting P.J.

Morrison, J.

Hull, J.

**September 27, 2001**

**C032680      THE PEOPLE v. BRYAN                      (Not for Publication)**

The judgment is affirmed.

KOLKEY, J.

We concur:      Blease, Acting P.J.

Morrison, J.

**C032731      THE PEOPLE v. WALKER                      (Not for Publication)**

The order denying the petition for writ of error coram nobis is affirmed.

KOLKEY, J.

We concur:      Blease, Acting P.J.

Morrison, J.

**C035442      THE PEOPLE v. EVANS                      (Certified for Partial Publication)**

The convictions are affirmed. The matter is remanded for resentencing.

Following resentencing, the trial court shall amend the abstract of judgment and forward a certified copy to the Department of Corrections.

HULL, J.

We concur:      Sims, Acting P.J.

Davis, J.

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**September 27, 2001, continued**

- C031334**      **HUGHES v. KMART CORPORATION**      **(Not for Publication)**  
**C031551**      The judgment is affirmed. The parties shall pay their own costs on appeal. (Cal. Rules of Court, rule 26(a).) Kmart shall pay Hughes for reasonable attorney fees that she has expended on appeal in defending the judgment on her retaliation claim. The matter is remanded to the trial court for it to determine the appropriate amount of this attorney fee award in compliance with California Rules of Court, rule 870.2.  
   SCOTLAND, P.J.  
We concur:      Blease, J.  
   Nicholson, J.
- C034103**      **CONCERNED CITIZENS OF AMADOR COUNTY v. COUNTY OF AMADOR et al. and SUTTER GOLD MINING COMPANY**  
   **(Not for Publication)**  
The judgment is affirmed. Costs on appeal are awarded to the County and Sutter Gold.  
   NICHOLSON, J.  
I concur:      Raye, J.  
I respectfully dissent...The judgment should be reversed.  
   Sims, J.
- C034194**      **KARP v. STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS et al.**  
   **(Not for Publication)**  
The judgment is affirmed. Karp's request for findings on appeal is denied.  
   CALLAHAN, J.  
I concur:      Blease, Acting P.J.  
I concur in Justice Callahan's opinion...  
   Sims, J.

**September 28, 2001**

- C034705**      **THE PEOPLE v. SAYAVONGSA et al.**      **(Not for Publication)**  
The judgment as to defendant Sayavongsa is affirmed. The sentence on count XI for defendant Sivongsa is stayed (Pen. Code, § 654) and the trial court is directed to prepare and forward to the Department of Corrections a new abstract of judgment reflecting this sentence modification. As so modified, the judgment as to defendant Sivongsa is affirmed.  
   MORRISON, J.  
We concur:      Davis, Acting P.J.  
   Callahan, J.

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**September 28, 2001, continued**

- C035107      THE PEOPLE v. HOLCOMB      (Not for Publication)**  
The judgment is affirmed.  
                         SIMS, Acting P.J.  
We concur:      Davis, J.  
                         Morrison, J.
- C032931      MCGOWAN et al. v. LEO S. JONES OIL COMPANY, INC.      (Not for Publication)**  
The judgment is affirmed.  
                         NICHOLSON, J.  
We concur:      Scotland, P.J.  
                         Davis, J.
- C036470      BASILIO v. CAMRAY DEVELOPMENT AND CONSTRUCTION CO., INC., et al.      (Not for Publication)**  
The judgment is affirmed.  
                         CALLAHAN, J.  
We concur:      Scotland, P.J.  
                         Morrison, J.
- C037295      In re SEAN J.; THE PEOPLE v. SEAN J.      (Not for Publication)**  
The judgment is affirmed.  
                         HULL, J.  
We concur:      Scotland, P.J.  
                         Callahan, J.
- C037497      In re RYAN R.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. KESIA B. et al.      (Not for Publication)**  
The juvenile court's order is affirmed.  
                         HULL, J.  
We concur:      Scotland, P.J.  
                         Callahan, J.
- C037805      In re JEFFREY W.; TEHAMA COUNTY DEPARTMENT OF SOCIAL SERVICES v. JEFFREY W.      (Not for Publication)**  
The orders of the juvenile court are affirmed.  
                         CALLAHAN, J.  
We concur:      Scotland, P.J.  
                         Hull, J.

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**C038112**      **In re PATRICIA F.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. RICARDINA F.**      **(Not for Publication)**

The orders of the juvenile court are affirmed.

BLEASE, Acting P.J.

We concur:      Sims, J.

                    Nicholson, J.